

T H E
C A S E
O F

ISRAEL JALABERT, WILLIAM BEL-
CHIER, and JAMES TALBOT, Esq^{rs}
the surviving *Managers* of THE ROYAL
FAMILY PRIVATEERS, concerning
the Imprisonment

O F

GEORGE WALKER, a Bankrupt.

Most humbly submitted to the Consideration
of Parliament.

THE

C. A. S.

FOR THE YEAR 1881

OF THE

AMERICAN

ASSOCIATION

OF

1881

GEORGE W. ALLEN, A. B.

OF THE

AMERICAN ASSOCIATION

T H E
C A S E
O F
I S R A E L J A L A B E R T, &c.

A

 S the Managers principal Intention at present is only to exhibit a brief Exposition of such Facts and Circumstances, as will be sufficient to falsify the Allegations which have been published against them in a printed Paper, intituled, *The Case of George Walker, a Bankrupt*, they have omitted taking Notice of many Things, which on a future Occasion they may think necessary to prove, in the ordinary Course of Justice, being unwilling to lengthen their Case by any thing which may divert the seeing it in so clear a Light, as they hope it will appear to every one who shall be at the Trouble of perusing the following Sections.

S E C T. I.

Containing a Detail of all the Dealings and Accounts that have ever passed between the Managers and the Bankrupt.

IN the Year 1746, the *Royal Family Privateers* were fitted out by the Managers, and sent to Sea, under an Agreement, that a Moiety of the nett Produce of all Prizes and Bounty-Money, should be divided amongst the Officers and Sailors, in lieu of Wages, in such Shares as was stipulated by certain Articles entered into on that Occasion, whereby the Bankrupt was appointed Commander of all the Ships, and his Shares and Allowances in the Prizes were

ascertained ; and all the Officers and Sailors made Mr. *Henry Casamayor*, a Merchant, at *Bristol*, their general Agent, to settle Accounts, and receive their Prize-Money as soon as it should become due, as they were desirous of being paid at *Bristol*.

In divers Cruizes several Prizes were taken and carried into *Lisbon*, a neutral Port, on which Occasion the Managers employed Mess. *Mawman & Macey*, and also *John Atlee*, who were Merchants then residing there, to be their Factors, Brokers, or Agents, to take Care of their Property and Interest in the Prizes.

The richest Prize that was taken, being a *Spanish* Register, called *La Ninfa*, was lost at Sea, in coming from *Lisbon* for *England*, but the Managers having made Insurance thereon for the Bankrupt, they became accountable to him for what they received for his Use, and never having had any other Concern or Dealing whatsoever with the Bankrupt, save in respect of the *Privateers*, *Prizes* and *Insurance* aforesaid, whereby in any Sort they became indebted to him. The Total of all the Demands he ever had on them, is reducible to the four following Articles, or general Heads, viz.

1. *For his Shares in a Moiety of all Prizes and Bounty-Money, according to Agreement.*
2. *For his Commission of Three per Cent. as Ship's Quarter-Master, by like Agreement.*
3. *For the Insurance-Money on the Ninfa, received by the Managers for the Bankrupt's Use, over and above the Premium and Charges. And*

Lastly, For such Money as the Bankrupt had, bona fide, disbursed for the Use of the Managers, as Commander of the Privateers, during their Cruizes.

In respect of the *two first* of these four Articles, on which the Whole of the Bankrupt's Demands on the Managers is founded.
The

The Managers in *May*, 1750, which was as soon as it was in their Power, completed a General Account of the Produce of all the Prizes, come to their Hands or Use, which together with all the Vouchers to verify the same, was carefully examined, approved and signed, not only by Mr. *Casamayor*, the general Agent appointed for that Purpose by all the Officers and Sailors, by Deed under their Hands and Seals, but also by the Bankrupt himself, who had a Copy of the whole Account delivered to him, as Commander in Chief of all the Ships, by which it appears, that the Total of all that was ever due to him from the Managers, for his Shares in the Prizes, and his Allowance thereon, amounted to 1696*l.* 15*s.* 10*d.* and no more, which being added to the Sum of 26*l.* 6*s.* 11*d.* afterwards received on Account of Bounty-Money, on the *Gloriosa* Prize, for the Bankrupt's Use, made his whole Demand on Account of the Prizes, amount to 1723*l.* 2*s.* 9*d.* and no more.

In respect to the *third* of the said four Articles, it amounted to 822*l.* 12*s.* 4*d.* and no more; which was the Sum received for the Insurance of the *Ninfa*.

And as to the *fourth* and last Article in respect of which the Bankrupt ever had any Demand on the Managers, it consisting of Disbursements alledged to have been made by him for their Use, it is incumbent upon him to prove the Reality thereof, which he hath never yet done: For though he hath delivered a long Account, amounting in all to 2426*l.* 0*s.* 11*d.* he hath not produced Vouchers to verify great Part thereof; and, among the Particulars so claimed, three Overcharges, amounting together to 180*l.* 12*s.* 3*d.* were acknowledged as Mistakes by the Bankrupt himself, upon the Managers shewing him that those Sums had been actually paid by themselves, or their Agents; which reduced the Bankrupt's Claim in respect of the said fourth and last Article, to the Sum of 2245*l.* 8*s.* 8*d.*

So that the Account of all the Money that ever was due from the Managers to the Bankrupt, as Commodore and Quarter-Master of

of the said Squadron, out of the Produce of the Sale of the Prizes, or otherwise howsoever, is comprized in the *four* following Articles, viz.

	£	s.	d.
1. For his Shares in a Moiety of the Produce of the Prizes, and 3 l. per Cent. as Quarter-Master thereon, according to the Articles, as appears by the general Account thereof, settled and signed by himself - - - -	1696	15	10
2. For his Share of the Bounty-Money on the Gloriosa Prize, taken by one of His Majesty's Ships of War, assisted by one of the Privateers, and not received till after the General Account was settled, it being uncertain at that Time, whether any thing would be received in respect thereof or no - - - -	26	6	11
3. For the Insurance received on the Loss of the Ninfa, besides Premium, and Charges of Commission and Policy	822	12	4
4. For Disbursements claimed to be laid out during the Cruizes, for the Managers Use, by the Bankrupt, but not proved or verified by Vouchers - - - -	2245	8	8
In all	4791	3	9

Having thus shewn that the Sum of 4791 l. 3 s. 9 d. is the utmost of all the Demands the Bankrupt ever really had on the Managers, the Demands they had on him are as follows:

	£	s.	d.
1747. The Bankrupt received of Messrs. Mawman and Macey, Nov. 28. the Managers Agents at Lisbon, on their Account -	1124	14	2
Item, Of the said Messrs. Mawman and Macey, another Sum on the like Account - - - -	1110	5	7
Item, Of them another Sum of - - - -	31	16	0
Carried over	2266	15	9

	£	s.	d.
Brought over	2266	15	9
1748. For Money received at Lisbon, of John Atlee, the Ma- May 13. nagers Correspondent there, for their Use - - - - }	672	10	0
May 28. For another Sum received of John Atlee at Lisbon, for the Managers Use - - - - - }	327	14	4
For fifty-nine Serons of Bees-wax, sold by the Bankrupt at the Island of Tercera, in 1747 - - - - - }	386	9	3
Paid the Bankrupt in London at several Times, on Account	331	0	0
Item, For Slops taken by the Bankrupt at Lisbon, of Ayrey and Comp. on the Managers Account - - - }	46	12	9
Item, For two Anchors of Brandy - - - - - }	1	17	6
Slops remaining after the second Cruize - - - - - }	98	6	9
For thirty coid Crees - - - - - }	4	19	0
For a wounded Foremast and Bowspit - - - - - }	5	19	9
For Provisions belonging to the Managers, sold to Ayrey and Comp. by the Bankrupt }	32	15	4
1748. Mar. 16. Lent the Bankrupt on Mortgage and Bond of that Date -	2550	0	0
For the Prince Frederick Privateer, sold by the Managers at public Sale, at Lloyd's Coffee-House, and bought by the Bankrupt - - - - - }	1510	0	0
Interest on the Bankrupt's Bond for 2550l. from the 16th of March, 1748-9, to the 15th of March, 1750-1, being two Years, at 5l. per Cent. as per Agreement - - - - - }	255	0	0
Total of the Managers Demands on the Bankrupt -	8480	0	5
The Total of the Bankrupt's Demands on the Ma- nagers - - - - - }	4791	3	9
	3688	16	8

So that on the 15th Day of *March*, 1750, the Bankrupt was indebted to the Managers in the Sum of 3688*l.* 16*s.* 8*d.* on which Day they received, by the Hands of Mr. *Casamayor*, his Agent, 2610*l.* 2*s.* 9*d.* which reduced the same to 1078*l.* 9*s.* 11*d.* the Debt now due to the Managers from the Bankrupt, after all his Claims, Allowances, and Demands whatsoever, are satisfied: Of all which the Managers are ready to produce sufficient Vouchers, and indisputable Evidence, and would rest their Case here, if the Misrepresentations of the Bankrupt did not make it necessary, for the Vindication of their Conduct since the said 14th of *March*, 1750, to set forth what has been done on their Part to obtain Justice against the Bankrupt, and what has been done on his Part to avoid it, which is the Subject of the following Sections.

S E C T. II.

An Account of the Managers Proceedings at Law against the Bankrupt, in two Actions, and the Defences he made therein.

AS the Managers had given the Bankrupt Time from the 14th of *March*, 1750, to *January*, 1756, in hopes of receiving the the Money he owed them, they then commenced an Action against him; whereon they held him to Bail only for 800*l.* in Expectation that, upon his being arrested, he would have proposed some sort of Accommodation; but he turned himself over a Prisoner to the *King's-Bench*.

Being thus a Prisoner, the Managers were put to the Necessity of proceeding against him, otherwise he would have been discharged for Want of Prosecution; and as the Money he owed them was due partly on Account, and partly on Bond, they were advised that it could not be recovered in one Action; they therefore declared in an Action on the Case, and also in an Action of Debt on the Bond: To both which Actions the Bankrupt made a Defence.

In the Action on the Case he pleaded, *not that he owed the Managers nothing, as he hath since pretended, but in the Words, or to the Effect following, viz.*

“ And the said *George Walker* defends, &c. and says, That the
 “ said *Israel, William, and James* [the Managers] ought not to
 “ have or maintain their aforesaid Action against him; because he
 “ says, that they in *Hilary Term*, in the twenty-ninth Year of His
 “ Present Majesty's Reign, impleaded the said *George* in His Majesty's
 “ Court of *Common-Bench* at *Westminster*, in a certain Plea of Tres-
 “ pass on the Case on Promises, for not performing the *very same*
 “ *identical Promises* mentioned in the said Declaration; in which
 “ Action they recovered Judgment for Four Hundred Pounds;
 “ and that such Judgment was then in force; and referred to the
 “ Record thereof.”

By this false Plea the Bankrupt prevented the Managers from obtaining Judgment against him till *Michaelmas Term 1756*; but in that Term, no Record being produced to verify his Plea, the Managers obtained Judgment against him; and, on executing a Writ of Inquiry at *Guildhall, London*, the Jury found Damages for 833*l.*

The Bankrupt also made another false Plea of a former Judgment, in the Action of Debt on the Bond, whereon the Managers also recovered Judgment; and if they had not charged him in Execution, he would have superseded both the Actions.

S E C T. III.

Concerning the Bankruptcy.

ALL the Statutes concerning Bankrupts have, for their principal Object, the Relief of Creditors, and the preventing of Frauds by Bankrupts, who in these Laws are stiled Offenders, and particularly by the 21st of *James I.* cap. 19.

It is enacted, " That if a Bankrupt cannot make it appear that
 " he hath sustained some casual Loss, whereby he is disabled to pay
 " what he owed, he is to be indicted, and set in the *Pillory*." And
 by the Statute of the fifth of His Present Majesty, intituled, *An Act*
to prevent the committing of Frauds by Bankrupts, it is also enacted,
 that every Bankrupt shall discover

" How and in what Manner, to whom, and upon what Con-
 " sideration, and when, he hath disposed of, assigned, or trans-
 " ferred any of his Goods and Effects not disposed of in the Way
 " of his Trade, and the ordinary Expences of his Family; and
 " that if he removes, conceals, or embezzles any thing to the Va-
 " lue of 20 *l.* with Intent to defraud his Creditors, he shall be ad-
 " judged *guilty of Felony*, without Benefit of Clergy.

From the Spirit of these Laws it appears as clear as a self-evident
 Proposition, that every Commission of Bankrupt obtained at the
 Instance of the Debtor himself, merely to procure a Certificate, is
 an Abuse of Justice.

Whether the Commission against *George Walker* be such or not,
 is submitted upon the following Facts and Observations.

I. *It was sued out against a Person, who, at the Time of its passing*
the Great Seal, had been a Prisoner for Debt upwards of fifteen Months.

II. *It was against a Person who had spent and embezzled every Shil-
 ling of his Estate.*

III. *At the Choice of Assignees, it appeared there was no Estate, either*
real or personal, to be assigned.

IV. *The Assignees, by accepting of an Assignment of nothing, made*
themselves liable to pay the Charges of the Commission, without a lawful
Possibility of being reimbursed.

V. *The*

V. *The Assignees objected to the Managers proving their Debt recovered at Law, though the Act of Bankruptcy for the Support of the Commission, was grounded upon the Bankrupt's Imprisonment for Debt at their Suit.*

VI. *The Assignees so opposing the Proof of the Managers Debt, after they had made Proof of it themselves, as the Ground of an Act of Bankruptcy, is inconsistent with any other Notion, than that the Commission was intended for the Discharge of the Bankrupt, and not for the Relief of his Creditors.*

VII. *Though the Bankrupt had discovered no Estate, and though there was no lawful Fund to pay the Assignees any of their Charges, yet the Assignees in July, 1757, joined with the Bankrupt in a Petition to my Lord Keeper, praying that the Bankrupt might be discharged out of Execution at the Managers Suit.*

VIII. *This Petition contained (amongst many others) one very extraordinary Allegation, which was*

“ That the Managers opposed the Bankrupt's Certificate to prevent the Assignees from having the Benefit of his Evidence against them, for an Account of the Prizes,” *inferring thereby that suing out a Commission of Bankruptcy against a Prisoner in Execution, is a proper Expedient to enable a Defendant to become a Witness for himself, and so turn the Tables upon the Plaintiff. If Bankrupts can establish this Practice, they will have no Occasion to apply to Parliament for Relief.*

IX. *Though Mr. Cruikshank, the Assignee, knew that the Managers had Judgment at Law against the Bankrupt, in one Action only, for 850l. including Costs, yet without ever making the least Inquiry or Attempt to discover whether the Bankrupt was or was not, really indebted to the Managers, or they to him, and though all Dealings between them had been closed near seven Years, and though he was a Stranger to every Transaction that had passed relative to the said Prizes and Accounts, yet*

he made an Affidavit, That he believed the Managers were indebted to the Bankrupt in 5000 l. and the Bankrupt himself thought fit to swear positively, That the Managers had always refused to settle any Account touching his Share of the Prizes, though he knew he had passed and signed such General Account thereof as aforesaid, under his own Hand.

X. Three Days after his swearing his first Affidavit that no Account was settled, he swore a second, That the Account was settled, but that it was under an Agreement that he and the Managers should execute to each other general Releases; though in the same Affidavit he swears positively the Managers were indebted to him in 5000 l.

These Affidavits were so enormous, and the Proof of the Managers Debt was so clear, that my Lord Keeper, on hearing the Petition of the Managers, praying to be admitted to prove their Debt, and also the Petition of the Assignees and Bankrupt, praying the Bankrupt might be discharged, made the following Order, on the 3d of November, 1757:

“ Now upon hearing the said Petitions read, and what was
 “ alledged by the Council for the Petitioners, in both Petitions, upon
 “ the first Petition of *Israel Jalabert* and others [meaning the Ma-
 “ nagers] I do order, That the Petitioners be admitted to prove their
 “ Debt mentioned in the said Petition, before the Commissioners,
 “ and that they be admitted Creditors for what they shall so prove, in
 “ order to dissent from the Allowance of the Certificate of the said
 “ Bankrupt, they having waved all Benefit of any Dividend of the
 “ Estate and Effects of the said Bankrupt, *George Walker*; and upon
 “ the Petition of *James Coutts* and others [meaning the Assignees
 “ and the Bankrupt] I do order, That the said Petition be, and the
 “ same is hereby dismissed.

Thus the Managers having established their Debt due from the Bankrupt, both at Law, in Equity, and under the Commission, at a very large Expence, they were in hopes they should have been at rest; but they find, by Experience, that no End is ever to be made with
 the

the Bankrupt: For since he hath found it impracticable to prevail in the ordinary Courts of Justice, he is now come before the *High Court of Parliament*, and resumed the same false Pretences which have been so often refuted below.

As the Managers, therefore, are greatly affected and hurt in their Reputation, they are obliged to lengthen their Case by stating and answering the several Matters alledged against them, which is the Subject of the next Section.

S E C T. IV.

Wherein all the false Allegations of the Bankrupt are stated and answered.

A L L E G A T I O N I.

*T*HAT the Managers had recovered Judgment against the Bankrupt, in the Court of Common Pleas, for the same Debts, for which they afterwards brought Actions in the Court of King's Bench.

A N S W E R.

Those Pleas were false, and Judgment was given against the Bankrupt thereon, and the Bankrupt afterwards in his Affidavit in Chancery, sworn the 2d of *August*, 1757, made Oath as follows:

“ *And this Deponent further saith, that he, this Deponent, being*
 “ *advised, that by the strict Rules of the Common Law, he could not be*
 “ *relieved against the said two several Demands, made by the said*
 “ *several Actions as aforesaid, and that his proper Relief was in a Court*
 “ *of Equity, this Deponent for that Reason made no Defence at Law*
 “ *to either of the said Actions.*”

If he was not indebted to the Managers, on Account of the Money they declared for in the Action upon the Case, it is absurd to say, and worse to swear, that he could not have defended himself at Law, by obliging the Managers to have proved their Debt. He might have brought his whole Case before a Jury. The Managers

nagers could have charged him with Nothing, they had not strict and legal Evidence to prove.

In the Action upon the Bond, if it had been fully paid, he might have pleaded Payment. If it had not been fully paid, he might, under the Act of Parliament, have had a Reference to the Secondary of the *King's Bench*, who would have taken an Account of what was really due, and upon Payment of that, be it what it might, the Court would have ordered Proceedings to have been Stayed upon the Bond, but the Bankrupt rather chose to set up a false Defence, and afterwards to swear he had made none.

ALLEGATION II.

That in March, 1748-9, the Managers were possessed of a large Sum of Money, the Property of the said Bankrupt, on Account of the said Prizes when they lent him the aforesaid 2550l.

ANSWER.

This is a very ungenerous Misrepresentation of the Truth, for at that Time the Bankrupt had actually received of Mess. *Mewman* and *Macey*, as appears by the Debtor-side of the Account, much more than his Shares of the Prizes amounted to, besides upwards of a Thousand Pounds of Mr. *Atlee*, as before stated.

ALLEGATION III.

That the Managers were paid several large Sums of Money on Account of the 7247l. 4s. besides the 2610l. 6s. 9d. paid them the 15th of March, 1750, by Henry Casamayor.

ANSWER.

The Managers never received one Farthing on Account of the said 7247l. 4s. Except the said 2610l. 6s. 9d. received of Mr. *Casamayor*, neither did the Bankrupt ever pretend they had, 'till after his Bankruptcy.

ALLEGA-

ALLEGATION IV.

That the Managers, though often applied to by the Bankrupt to Account with him, touching his Interest in the said Prizes, in their Hands, they have constantly refused, and still do refuse, to come to any such just and fair Account, pretending that the Accounts of the said Privateers and Prizes, are so intricate and perplexed, that it is impossible for them to settle them.

ANSWER.

This Assertion is not only contradicted by the Bankrupt's own Act and solemn Attestation, under his Hand, *but is also in the Nature of the Transaction, impossible to be true.* The settling a general Account of the Prizes was indispensable, for without it there could have been no Division of the Produce thereof into Moieties, according to the Articles, whereby it was stipulated, that all Prizes should be divided into Moieties, and that one Moiety should belong to the Owners, and the other to the Sailors, in lieu of Wages, besides,

I. The general Account of the Prizes was settled in *March, 1750*, and a Copy thereof delivered to the Bankrupt, and is now in the Custody of *Mr. Cruikshank*, the Assignee, as appears by his Affidavit.

II. The Prizes have been divided seven Years ago, upon the Foot of that Account.

III. The Sailors have given Releases upon the Foot of that Account.

IV. The Bankrupt, by his Agent *Mr. Casamayor*, received all his Servants Shares in the Prizes, upon the Foot of that Account.

V. *Mr. Casamayor*, as Agent for the Bankrupt, received the *2610l. 2s. 9d.* paid to the Managers, as stated in the Bankrupt's Case, in Consequence of that Account. Besides, the Bankrupt in the next Paragraph but one of his Case, asserts,

ALLEG A-

ALLEGATION V.

That finding himself threatened and disabled by the unjust Detention of his Property in the Hands of the Managers, to contest the Matter in Account with such Powerful Adversaries, he came to an Agreement with them, that there should be mutual general Releases executed between him, and the Managers, in Consideration whereof, and not suspecting any Fraud, he signed the general Account of the Prizes, in hopes the Managers would have executed to him such general Release, but instead of that they afterwards arrested him in a fictitious Action for 833*l.* 12*s.* 11*d.* and therefore does not think himself bound by his having signed the Books, as the Managers have not released him.

ANSWER.

The Absurdities and Contradictions of the Allegations in this Case are so obvious, that they are *Felo de se*: For,

I. If the Bankrupt could not get the Managers to make out an Account of the Prizes, how could he agree to and sign their general Account thereof, as stated in the Case?

II. If the Managers detained his Property in their Hands, and were indebted to him in 5000*l.* as he has positively sworn in his Affidavit made the 5th of *August*, 1757, how can it be credited that he would give up a Demand of 5000*l.* for a general Release?

III. If they were indebted to him, why should he want a general Release? Can a Creditor for 5000*l.* be supposed to ask his Debtor for a general Release, as the only Satisfaction for so large a Debt?

IV. If the Managers Actions brought against him were fictitious, as he swears they were, how could he be advised, as he likewise swears he was, that he had no Defence at Law? The King's Subjects would be in a very distressed Condition indeed, if they had no Defence at Law against a fictitious Action.

V. If

V. If he had a Remedy in Equity, as he fwears he was advised; he had it in the Year 1750, when all the Accounts were closed, and since which he hath had no Dealing with the Managers; why, therefore, has he omitted to bring his Bill in Equity full nine Years last past, if so large a Sum as 5000*l.* was really due to him?

VI. If he was in such miserable Circumstances, and so distressed as he alledges, that he had not Ability to raise Money enough in nine Years to bring a Bill in *Chancery*, how did he get Credit with Mr. *Cruikshank* upon Bond, dated the 15th of *May*, 1756, for *Eight Hundred Pounds* proved under the Commission, and with Mr. *Tobin* on Bond, dated the 7th of *May*, 1756, for upwards of a *Thousand*, of which 998*l.* 6*s.* is likewise proved under the Commission? Besides his other Debts afterwards contracted?

Can these Facts be true, and the Bankrupt's Allegations credited?

VII. Or further, if the Managers were indebted to the Bankrupt, would not his Assignees have rather been at the Charge of a Bill in Equity, to recover 5000*l.* than that of a Commission of Bankrupt against a distressed Prisoner, in Execution, not worth a Groat? Or would not the Assignees have given themselves the Trouble of an Enquiry into the Reality of the Bankrupt's Claim against the Managers, in Preference to the exhibiting a Petition at a great Expence for his Discharge, without ever demanding to see a single Voucher?

VIII. If the Bankrupt was so friendless, as not to be able to raise a few Pounds to bring the Managers to an Answer in *Chancery*, How could he find Security for 8000*l.* to obtain the Liberty of the Rules of the *King's Bench* Prison, as he states in his Case he was forced to do?

ALLEGATION VI.

In this Allegation the Bankrupt affirms, *that the Commission against him hath issued fairly, and without any Fraud, or Collusion, with a View to procure his just and lawful Creditors Satisfaction. That he has in every Respect complied with the Law, by surrendering up his All for their Benefit,*

ness, who are so well satisfied of his just and honest Dealings with them, that they have all very readily signed his Certificate, and that the only Creditors who oppose it are the Managers.

A N S W E R.

The Bankrupt supposes, one would think, that his *own Word* will go a great Way, as it is the *sole Evidence* he has to support his Case. But whether this Commission hath issued fairly, and without any Fraud or Collusion, and whether the Bankrupt hath in every respect complied with the Law as he suggests, the Managers submit under the Consideration of what follows :

When the Bankrupt was drawing the Plan of a Bankruptcy, two Obstacles occurred necessary to be removed ; the one was, the Debt due to the Managers ; and the other, the Debt due to Mr. *Michael Tobin*, on Bond for 1046 *l.* and Interest, from whom they had no hopes of obtaining a Certificate, as there was nothing intended to be divided.

As to the Managers Debt, he was of Opinion, that as the Bankrupt was in Execution at their Suit, no Debt could be proved by them, unless they discharged him, which would fully answer the Design of the Plan. But as to Mr. *Tobin*, another Course was to be taken ; it was deemed impossible to get him over, without doing something for him, especially as he had been extremely hurt by the Loss of so much Money as was due to him on the Bond.

A few Days, therefore, before the Commission of Bankrupt against Commodore *Walker* issued, the Commodore procured an Interview with Mr. *Tobin* ; when, on such Representation of his Circumstances, and Imprisonment, as he thought fit to make on that Occasion, *and as the Bond was not payable till the 7th of May, 1759, two Years then to come*, he prevailed with Mr. *Tobin* to compound for his whole Debt of 1046 *l.* and Interest for 200 *l.* 100 *l.* to be paid down, and the other 100 *l.* in three Weeks ; and thereupon Mr. *Tobin* delivered up the Bond, and the Bankrupt, at the same Time,
paid

paid him 100 l. and engaged to pay the other 100 l. as by the Note under his Hand in the following Words appears :

London, 16th May, 1757, Received of Michael Tobin, one Bond from me to him, dated 7th May, 1756, for 1046 l. and Interest, payable the 7th of May, 1759. In Consideration whereof, I have paid him the Sum of 100 l. this Day, and do hereby engage myself to pay him the like Sum of 100 l. within twenty Days from the Date hereof.

George Walker.

This Note the Managers have in their Custody, ready to be given in Evidence when required.

Before the twenty Days for Payment of the other 100 l. to Mr. Tobin were expired, the Commission issued, and then the Bankrupt became absolutely incapable, by that *unforeseen* Event, to discharge the remaining 100 l. *till after he had got his Certificate*; and as to that a great and unexpected Disappointment happened, my Lord Keeper ordered the Certificate to be stopt, till the Managers had proved their Debt, which altered entirely the Face of the Process. If the Managers should prove their Debt, the Bankrupt would be deficient in the Value of the Debts proved to obtain the Certificate. This produced another fraudulent Transaction, by a new Agreement with Mr. Tobin; which was, that he should *take the Bond back again that was compounded for, and delivered up as aforesaid, and prove it under the Commission*, which Mr. Tobin, by the Persuasion of the Bankrupt's Solicitor, came into, and actually proved 998 l. 8 s. upon the said Bond, though it had been as aforesaid so lately delivered up, and then signed, or promised to sign the Bankrupt's Certificate.

The Bankrupt, in his last Examination under the Commission, *both concealed the said 100 l. disposed of in the Management of the said Fraud but a few Days before the Commission issued*, though he knew he had, by his Imprisonment, been a Bankrupt from the first Day of his arrest, above fifteen Months then past.

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What the Consequence of this Fact may be, independant of all others, is not intended to be anticipated, as it is fit to be determined in a proper Jurisdiction.

Upon the Whole, the Managers submit themselves to the Judgment of the Impartial, unconscious of having done or intended any thing in respect to this Bankrupt unbecoming the Character of fair Dealing.

And whether such Persons as, upon a just Examination of their Cases, shall be found to have spent and wasted the greatest Part of their Substance, and then to have gone into Prison to gain Time by contesting their just Debts to conceal and squander away the Remainder of their Effects; that after their last Penny hath been consumed, shall have caused themselves to have been declared Bankrupts, by procuring fraudulent Commissions to be taken out under Pretence of delivering up their All, when in fact Nothing was left; who shall not have been able to discover the least casual Loss to have caused a Bankruptcy; who shall appear to have backed their Frauds by Perjury, and their Concealments by Felony; are Objects for national Commiseration, and a special Interposition of Parliament to divert the ordinary Course of the Administration of Justice, is humbly submitted to the Consideration of the Legislature.

F I N I S.